



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0695; FRL-9708-3]

Approval and Promulgation of Implementation Plans; New Mexico; Albuquerque/Bernalillo

County: Motor Vehicle Inspection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions from the Governor of New Mexico to the State Implementation Plan for Air Quality for the City of Albuquerque/Bernalillo County area pursuant to the Clean Air Act. The revision addresses 20.11.100 NMAC, Motor Vehicle Inspection, and was submitted on July 28, 2011. This revision includes addition of emissions inspections for 1998 and newer diesel vehicles less than 10,001 pounds and all gasoline/electric hybrid vehicles; changes test frequency for some model year vehicles; allows motorists that are financially incapable of paying for certain repairs to apply for a time extension; makes minor test procedure changes; codifies certain regulatory language from the VPMD Procedures Manual into 20.11.100 NMAC; reorganizes 20.11.100 NMAC; and makes numerous non-substantive changes

to clarify and improve readability of these rules. This action is being taken under section 110 of the Clean Air Act (the Act).

DATES: Comments must be received on or before **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2011-0695, by one of the following methods:

(1) www.regulations.gov: Follow the on-line instructions for submitting comments.

(2) Email: Ms. Sandra Rennie at rennie.sandra@epa.gov

(3) Fax: Ms. Sandra Rennie, Air Planning Section (6PD-L), at fax number 214-665-6762.

(4) Mail: Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

(5) Hand or Courier Delivery: Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2011-0695. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or email, if you believe that it is CBI or

otherwise protected from disclosure. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the FOR FURTHER INFORMATION CONTACT paragraph below to make an appointment. If possible, please make the appointment at least two working days in

advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The State submittal related to this SIP revision, which is part of the EPA docket, is also available for public inspection at the State and Local Air Agencies listed below during official business hours by appointment:

New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico.

Albuquerque Environmental Health Department, Suite 3023, One Civic Plaza (400 Marquette Avenue NW), Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's proposed action, please contact Ms. Sandra Rennie (6PD-L), Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD-L), Suite 1200, Dallas, Texas 75202-2733, telephone (214) 665-7367; fax number (214) 665-6762; email address rennie.sandra@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document the following terms have the meanings described below:

``We", ``us" and ``our" refer to EPA.

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I. What action is EPA proposing?

We are proposing to approve revisions to the State Implementation Plan (SIP) for Air Quality in New Mexico submitted by the State of New Mexico on July 28, 2011, that apply to the motor vehicle inspection and maintenance (I/M) program in Bernalillo County and the City of Albuquerque. Among the revisions to the I/M rules at 20.11.100 NMAC are expanding the vehicle I/M program to cover model year 1998 and newer diesel motor vehicles greater than 1,000 and less than 10,001 pounds, and all hybrid vehicle gasoline engines, changing the test frequency for some model year vehicles, revising an exemption for certain low income vehicle owners from the \$300 repair or repair estimate threshold, and revising some test procedures. Regulatory language from the VPMD (Vehicle Pollution Management Division) Procedures Manual is now codified in the I/M rules. Numerous non-substantive ministerial revisions are being proposed for approval because they add clarity and improve readability of the rules. A detailed evaluation of these revisions is provided in the Technical Support Document (TSD) that was prepared for this rulemaking.

II. EPA's Evaluation

Fuel Type Subject to Testing.

Although not required by federal rule, model year 1998 and newer compression ignition powered (diesel) motor vehicles of a certain size are now included in the vehicle I/M

program. Diesel vehicles that are greater than 1,000 pounds gross vehicle weight (GVW) but less than 10,001 pounds GVW are covered by On-Board Diagnostics second generation (OBDII) testing. Repair of tested but failing diesel vehicles will result in fewer emissions of particulate matter, and oxides of nitrogen (NO_x, a precursor of ozone formation). Testing for this fuel type will start on January 1, 2013, as adopted in the rule.

Gasoline/electric hybrids are no longer exempt from testing. Technology improvements have made testing the small gasoline engines found in hybrids now possible. Including the growing number of these hybrid vehicles in the I/M program will result in greater emission reductions of Volatile Organic Compounds and NO_x in the program area.

Model Years Subject to Testing.

A clarification is made about the newest model years that are exempt from testing. Two registration periods is clarified to mean four (4) years.

Model year 1975-1985 vehicles are now required to get tested on a biennial schedule. Previously, these vehicles were on an annual testing schedule. The Vehicle Pollution Management Division Program (Program) provided a de minimis demonstration that showed how making this change will not have an adverse impact on emissions from this group of vehicles. Other provisions in the rule require vehicles in this age group to have annual inspections if their HC (hydrocarbon) or CO (carbon monoxide) emissions are more than 75% of the standard for those pollutants. Based on the technical demonstration provided by the Program and the regulatory backstop for vehicles approaching the standard, EPA proposes to approve this

revision because it will not interfere with attainment and reasonable further progress of the NAAQS or any other applicable requirement of the CAA. *See* 42 USC 7410(l); CAA 110(l).

Motor vehicles 35 years old or older are now exempt from testing. The Program estimates that less than 300 vehicles per year would fall into this age group. We agree that this small number will not have an adverse impact on the SIP considering the other emission reduction enhancements being made to the I/M program at the same time. Therefore, we propose to approve this revision because it will not interfere with attainment and reasonable further progress of the NAAQS or any other applicable requirement of the CAA. *See* 42 USC 7410(l); CAA 110(l).

Test Procedures.

Minor changes to test procedures include requiring a visual inspection for a catalytic converter on all OBDII-equipped vehicles. The program is also limiting the gas cap pressure check to 1975-2005 vehicles. Increased OBD sensitivity for evaporative emissions in 2006 and newer vehicles will eliminate the need for a separate gas cap test on these newer vehicles. Therefore, we propose to approve this revision because it will not interfere with attainment and reasonable further progress of the NAAQS or any other applicable requirement of the CAA. *See* 42 USC 7410(l); CAA 110(l).

Time Extensions for Individuals on Public Assistance.

The requirement for spending at least \$300 for repairs to apply for a time extension has been revised to instead require a repair estimate of \$300 or more from a licensed repair facility

and proof that the individual is financially incapable of paying for the needed repairs. The Program has seen ineffective partial repairs as a result of this requirement for this income group of vehicle owners. The purpose of an I/M program is to bring about effective repairs with real emission reductions. When this program outcome is not achieved by this rule, eliminating this unnecessary expense for this income group is a logical change. The revision ensures that the time extension is available to those who are financially incapable of paying for necessary repairs at the time the inspection is due. Therefore, we propose to approve this revision.

Codification of Procedures.

Prior to the rule revision before us, many program procedures were contained in the VPMD Procedures Manual. The Program determined that this manual was out of date but some of the regulatory language needed to be retained. Portions of the manual were codified in the rules *verbatim*. The remaining parts of the manual were abandoned. The manual was not previously part of the SIP. Non-regulatory procedure information is now contained in technical guidance that is not part of the SIP. We propose to approve the revisions that incorporate language from the VPMD Procedures Manual into the regulatory text.

Definitions.

As a result of the codification process, some additional terms were added to the definitions section. These include Audit, Clean piping, Clean scanning, Covert audit, Covert surveillance, Emissions analyzer, Emissions inspection system or EIS, Fleet, Gas cap test, Overt audit, Pretesting, and Vehicle information database or VID. Definitions adopted for these terms

are those that are commonly used in the industry or similar to terms defined in the federal regulations. We propose to approve these definitions.

Other Revisions.

In the process of codifying language from the Procedures Manual, the I/M rules were reorganized with some sections being moved from one numbered section to another. Useless and/or anachronistic references were removed or revised to be more meaningful. We propose to approve these non-substantive changes.

III. Proposed Action

EPA is proposing to approve revisions to the New Mexico SIP for the City of Albuquerque/Bernalillo County submitted on July 28, 2011. These include revisions to the fuel type subject to testing, the model years subject to testing, certain test procedures, an opportunity for a time extension for motorists that are financially incapable of paying for repairs of \$300 or more, codification of procedures from the Procedures Manual, addition of definitions, and other non-substantive revisions. We believe these revisions will enhance the SIP and improve the effectiveness of the I/M program. This action is being taken under section 110 of the Act.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided

that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 20, 2012

Samuel Coleman, P.E.
Acting Regional Administrator, Region 6.

[FR Doc. 2012-18795 Filed 07/31/2012 at 8:45 am; Publication Date: 08/01/2012]